

**RESIDENCY REQUIREMENTS FOR IN-STATE
TUITION**

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jack R. Draxler

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends the definition of a resident student for tuition purposes within the state system of higher education.

Highlighted Provisions:

This bill:

- ▶ repeals the requirements for a nonresident student to complete 60 semester hours or have three years of residency prior to registration as a resident student;
- ▶ requires a nonresident student to maintain continuous Utah residency status for one full year prior to registration as a resident student;
- ▶ modifies the provisions that require objective evidence to be submitted that the student has taken overt steps to establish permanent residency in Utah;
- ▶ allows exceptions to the general residency rules for:
 - a person who marries a Utah resident;
 - a dependent student who has at least one parent who has been domiciled in Utah for at least 12 months;
 - a student who has at least one parent or grandparent who graduated with at least an associate degree from an institution within the state system of higher education;
 - a person who has established domicile in Utah based on an employer requested



transfer to Utah, recruitment by a Utah employer, or a comparable work-related move for full-time permanent employment in Utah;

- a person who is employed at least ten hours weekly as a graduate assistant;
- a person who is in residence in Utah to participate in a United States Olympic athlete training program; or
- a person who has established domicile in Utah for reasons related to divorce, the death of a spouse, or long-term health care responsibilities for an immediate family member; and
- makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53B-8-102, as last amended by Chapters 244 and 311, Laws of Utah 2006

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **53B-8-102** is amended to read:

53B-8-102. Definition of resident student.

(1) The meaning of "resident student" is determined by reference to the general law on the subject of domicile, except as provided in this section.

(2) (a) A person who has come to Utah and established residency for the purpose of attending an institution of higher education shall, prior to registration as a resident student:

(i) maintain continuous Utah residency status~~[:]~~ for one full year;

~~[(A) while completing 60 semester credit hours at a regionally accredited Utah higher education institution or an equivalent number of applicable contact hours at the Utah College of Applied Technology; or]~~

~~[(B) for three years regardless of the number of credit hours earned; and]~~

~~[(ii) demonstrate by additional objective evidence, including]~~

(ii) sign a written declaration that the student has relinquished residency in any other

59 state; and

60 (iii) submit objective evidence that the student has taken overt steps to establish
61 permanent residency in Utah and that the student does not maintain a residence elsewhere.

62 (b) Evidence to satisfy the requirements under Subsection (2)(a)(iii) includes:

63 (i) a Utah high school transcript issued in the past year confirming attendance at a Utah
64 high school in the past 12 months;

65 (ii) a Utah voter registration[;] dated a reasonable period prior to application;

66 (iii) a Utah [drivers] driver license[;] or identification card with an original date of
67 issue or a renewal date several months prior to application;

68 (iv) a Utah vehicle registration[;] dated a reasonable period prior to application;

69 (v) evidence of employment in Utah[;] for a reasonable period prior to application;

70 (vi) proof of payment of Utah resident income taxes[; and Utah banking connections;
71 the establishment of a domicile in Utah and that the student does not maintain a residence
72 elsewhere:] for the previous year;

73 [~~(b) A member of the Utah National Guard who performs active duty service shall be~~
74 ~~considered to maintain continuous Utah residency under this Subsection (2):]~~

75 (vii) a rental agreement showing the student's name and Utah address for at least 12
76 months prior to application; and

77 (viii) utility bills showing the student's name and Utah address for at least 12 months
78 prior to application.

79 (c) A student who is claimed as a dependent on the tax returns of a person who is not a
80 resident of Utah is not eligible to apply for resident student status.

81 (3) (a) (i) Personnel of the United States Armed Forces assigned to active duty in Utah,
82 and the immediate members of their families residing with them in this state are entitled to
83 resident status for tuition purposes.

84 (ii) Except as provided in Subsection (3)(b), upon the termination of active duty status,
85 the military personnel and their family members are governed by the standards applicable to
86 nonmilitary persons.

87 (b) Military personnel who had Utah residency immediately prior to their active duty
88 status and who reestablish residency in Utah upon the termination of active duty status are
89 entitled to resident status for themselves and the immediate members of their families residing

with them for tuition purposes.

(4) (a) Aliens who are present in the United States on visitor, student, or other visas which authorize only temporary presence in this country, do not have the capacity to intend to reside in Utah for an indefinite period and therefore are classified as nonresidents.

(b) Aliens who have been granted immigrant or permanent resident status in the United States are classified for purposes of resident status according to the same criteria applicable to citizens.

~~[(5) The board, after consultation with the institutions, shall make rules not inconsistent with this section:]~~

~~[(a) concerning the definition of resident and nonresident students;]~~

~~[(b) establishing procedures for classifying and reclassifying students;]~~

~~[(c) establishing criteria for determining qualifying credit hours and judging claims of residency or domicile;]~~

~~[(d) establishing appeals procedures; and]~~

~~[(e) other matters related to this section.]~~

~~[(6)]~~ (5) Any American Indian who is enrolled on the tribal rolls of a tribe whose reservation or trust lands lie partly or wholly within Utah or whose border is at any point contiguous with the border of Utah, and any American Indian who is a member of a federally recognized or known Utah tribe and who has graduated from a high school in Utah, is entitled to resident student status.

~~[(7)]~~ (6) A Job Corps student is entitled to resident student status if the student:

(a) is admitted as a full-time, part-time, or summer school student in a program of study leading to a degree or certificate; and

(b) submits verification that the student is a current Job Corps student.

~~[(8)]~~ (7) (a) A member of the Utah National Guard is entitled to resident student status if the student:

~~[(a)]~~ (i) is admitted as a full-time, part-time, or summer school student in a program of study leading to a degree or certificate; and

~~[(b)]~~ (ii) submits verification that the student is a member of the Utah National Guard.

(b) A member of the Utah National Guard who performs active duty service shall be considered to maintain continuous Utah residency under this section.

121 (8) A person is entitled to resident student status and may immediately apply for
122 resident student status if the person:

123 (a) marries a Utah resident eligible to be a resident student under this section; and

124 (b) establishes his or her domicile in Utah as demonstrated by objective evidence as
125 provided in Subsection (2).

126 (9) Notwithstanding Subsection (2)(c), a dependent student who has at least one parent
127 who has been domiciled in Utah for at least 12 months prior to the student's application is
128 entitled to resident student status.

129 (10) A student who has at least one parent or grandparent who graduated with at least
130 an associate degree from an institution within the state system of higher education is entitled to
131 resident student status.

132 (11) (a) A person who has established domicile in Utah for full-time permanent
133 employment may rebut the presumption of a nonresident classification by providing substantial
134 evidence that the reason for the individual's move to Utah was, in good faith, based on an
135 employer requested transfer to Utah, recruitment by a Utah employer, or a comparable
136 work-related move for full-time permanent employment in Utah.

137 (b) All relevant evidence concerning the motivation for the move shall be considered,
138 including:

139 (i) the person's employment and educational history;

140 (ii) the dates when Utah employment was first considered, offered, and accepted;

141 (iii) when the person moved to Utah;

142 (iv) the dates when the person applied for admission, was admitted, and was enrolled
143 as a postsecondary student;

144 (v) whether the person applied for admission to an institution of higher education
145 sooner than four months from the date of moving to Utah;

146 (vi) evidence that the person is an independent person who is:

147 (A) at least 24 years of age; or

148 (B) not claimed as a dependent on someone else's tax returns; and

149 (vii) any other factors related to abandonment of a former domicile and establishment
150 of a new domicile in Utah for purposes other than to attend an institution of higher education.

151 (12) A person who is employed at least ten hours weekly as a graduate assistant at an

152 institution of higher education is entitled to resident student status.

153 (13) (a) A person who is in residence in Utah to participate in a United States Olympic
154 athlete training program, at a facility in Utah, approved by the governing body for the athlete's
155 Olympic sport, shall be entitled to resident status for tuition purposes.

156 (b) Upon the termination of the athlete's participation in the training program, the
157 athlete shall be subject to the same residency standards applicable to other persons under this
158 section.

159 (c) Time spent domiciled in Utah during the Olympic athlete training program in Utah
160 counts for Utah residency for tuition purposes upon termination of the athlete's participation in
161 a Utah Olympic athlete training program.

162 (14) (a) A person who has established domicile in Utah for reasons related to divorce,
163 the death of a spouse, or long-term health care responsibilities for an immediate family
164 member, including the person's spouse, parent, sibling, or child, may rebut the presumption of a
165 nonresident classification by providing substantial evidence that the reason for the individual's
166 move to Utah was, in good faith, based on the long-term health care responsibilities.

167 (b) All relevant evidence concerning the motivation for the move shall be considered,
168 including:

169 (i) the person's employment and educational history;

170 (ii) the dates when the long-term health care responsibilities in Utah were first
171 considered, offered, and accepted;

172 (iii) when the person moved to Utah;

173 (iv) the dates when the person applied for admission, was admitted, and was enrolled
174 as a postsecondary student;

175 (v) whether the person applied for admission to an institution of higher education
176 sooner than four months from the date of moving to Utah;

177 (vi) evidence that the person is an independent person who is:

178 (A) at least 24 years of age; or

179 (B) not claimed as a dependent on someone else's tax returns; and

180 (vii) any other factors related to abandonment of a former domicile and establishment
181 of a new domicile in Utah for purposes other than to attend an institution of higher education.

182 (15) The board, after consultation with the institutions, shall make rules not

183 inconsistent with this section:

184 (a) concerning the definition of resident and nonresident students;

185 (b) establishing procedures for classifying and reclassifying students;

186 (c) establishing criteria for determining and judging claims of residency or domicile;

187 (d) establishing appeals procedures; and

188 (e) other matters related to this section.

189 ~~[(9)]~~ (16) Other institutions within the system shall honor a determination by an
190 institution that a person is a resident student unless the determination was obtained by false
191 pretenses or the facts which existed at the time of the determination have materially changed.

Legislative Review Note

as of 1-15-07 10:59 AM

Office of Legislative Research and General Counsel

H.B. 118 - Residency Requirements for In-state Tuition

Fiscal Note

2007 General Session

State of Utah

State Impact

Enactment of this bill may result in some Utah System of Higher Education institutions experiencing a net gain in tuition revenue due to new non-resident students enrolling in that institution because they are able to gain residency sooner under the provisions of this bill. Other institutions may see a net loss in tuition revenue because current non-resident students would be able to gain residency sooner and avoid paying the higher, non-resident tuition rates. Over the entire system, it is anticipated that the net tuition revenue will not show a significant change.

Individual, Business and/or Local Impact

Non-resident students who meet the criteria will benefit from paying resident tuition.

1/25/2007, 2:35:30 PM, Lead Analyst: Pratt, S.

Office of the Legislative Fiscal Analyst